

REMARKS

Claims 5, 8-10, and 12 are amended, claims 1-4, 11, and 13-15 are canceled, and claims 16-24 are added; as a result, claims 5-10, 12, and 16-24 are now pending in this application.

No new matter has been added through the amendments to claims 5, 8-10, and 12.

Claims 5, 8-10, and 12 have been amended merely to change the dependency of these claims from canceled independent claim 1 to new independent claim 16.

No new matter has been added through the new claims 16-24. Support for new claims 16-24 is found throughout the specification, including but not limited to, claims 1-15 as originally filed in the application, and on page 8, paragraph 0032 of the specification as originally filed.

Priority Document

Applicant appreciates the acknowledgement of Applicant's claim of priority based on European Application (EPO) No. 02080137.9 filed December 4, 2002. On 06/16/2007 a copy of this EPO application was successfully retrieved electronically by the USPTO from the EPO, a participating IP Office, using form PTO/SB/38 in compliance with the requirements of 35 U.S.C. 119(b).

Allowable Subject Matter

Claims 4 and 11 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and amended to overcome the rejections set forth under 35 U.S.C. § 112, second paragraph.

The subject matter of original claims 4 and 11 has been held allowable in the Office Action. Claims 17-24 are based on and include the subject matter of these allowable claims.

New independent claim 17 includes the subject matter from the previously pending independent claim 1, and from now canceled claim 4, which depended from independent claim 1. Since the subject matter of now canceled claim 4 is allowable, independent claim 17 is also allowable. Further, the issues related to the 35 U.S.C. § 112, second paragraph rejection of

previously pending and independent claim 1 have been addressed, and thus overcome, in independent claim 17. Applicant respectfully requests consideration and allowance of independent claim 17.

New independent claim 18 includes the subject matter from previously pending independent claim 1, and from now canceled claim 11, which depended from independent claim 1. Since the subject matter of now canceled claim 11 is allowable, independent claim 18 is also allowable. Further, the issues related to the 35 U.S.C. § 112, second paragraph rejection of previously pending and independent claim 1 have been addressed, and thus overcome, in independent claim 18. Applicant respectfully requests consideration and allowance of independent claim 18.

New independent claims 19-24 are based on original claims 13-15, with subject matter added to new claims 19, 21, and 23 corresponding to new independent claim 17, and with subject matter added to new independent claims 20, 22, and 24 corresponding to new independent claim 18. Applicant respectfully requests consideration and allowance of new independent claims 19-34.

§112 Rejection of the Claims

Claims 1-15 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4, 11, and 13-15 are canceled, so the rejection of these claims is moot. Applicant respectfully traverses this rejection with respect to pending claims 5-10 and 12.

As noted above, claims 5-10 and 12 now depend from independent claim 16. Applicant respectfully submits that new independent claim 16 meets the requirements of 35 U.S.C. § 112, second paragraph, and overcomes the rejections raised in the Office Action regarding the grounds for the 35 U.S.C. § 112, second paragraph rejection of claims 1-15.

Applicant respectfully requests withdrawal of the 35 U.S.C. § 112, second paragraph rejection with respect to claims 5-10 and 12.

Filing Date: December 4, 2003

Title: TERMINAL, DATA DISTRIBUTION SYSTEM COMPRISING SUCH A TERMINAL AND METHOD OF RE-TRANSMITTING DIGITAL DATA

§102 Rejections of the Claims

Claims 1-2, 9, and 13-15.

Claims 1-2, 9, and 13-15 were rejected under 35 U.S.C. § 102(b) for anticipation by Kelkar et al. (U.S. 5,138,659). Claims 1-2 and 13-15 are canceled, so the 102(b) rejection of claims 1-2 and 13-15 in view of Kelkar et al. is moot. Applicant respectfully traverses the rejection with respect to claim 9.

Claim 9 as amended depends from new independent claim 16. Applicant respectfully submits that, for at least the reasons stated below, new independent claim 16 is not anticipated by Kelkar et al., and therefore claim 9 is not anticipated by Kellar et al.

As further discussed below, new independent claim 16 includes,

wherein the terminal is further arranged to de-multiplex a decrypted data stream comprising multiple elementary data streams, and to retransmit information encoded in only a subset of the elementary data streams to the at least one secondary terminal over the secondary network.

Applicant respectfully submits that there is no teaching in Kelkar et al. of at least this subject matter as included in new independent claim 16. Claim 9 now depends from independent claim 16, and so includes all of the subject matter included in independent claim 16, and more. For at least the reasons stated above with respect to independent claim 16, Kelkar et al. fails to teach all of the subject matter as included in claim 9, and so claim 9 is not anticipated by Kelkar et al.

Applicant respectfully requests reconsideration and withdrawal of the rejection, and allowance of claim 9.

Claims 1-2, 5, 8-9, and 12-15.

Claims 1-2, 5, 8-9, and 12-15 were rejected under 35 U.S.C. § 102(e) for anticipation by Ducharme et al. (U.S. 7,120,253). Applicant does not admit that Ducharme et al. is prior art, and reserves the right, as provided for under 37 C.F.R. 1.131, to "swear behind" Ducharme et al. at a later time. However, for the reasons stated below, such a swearing behind of Ducharme et al. is not required this time.

Claims 1-2 and 13-15 are canceled, so the 102(e) rejection of claims 1-2 and 13-15 in view of Ducharme et al. is moot. Applicant respectfully traverses the rejections of claims 5 and 8-9.

Claims 5 and 8-9 as amended depend from new independent claim 16, and so include all of the subject matter included in independent claim 16, and more. For at least the reasons stated below with respect to independent claim 16, Ducharme et al. fails to teach all of the subject matter as included in claims 5 and 8-9, and so claims 5 and 8-9 are not anticipated by Ducharme et al.

Applicant respectfully requests reconsideration and withdrawal of the rejection, and allowance of claims 5 and 8-9.

§103 Rejections of the Claims

Claims 3, 6-7, and 10.

Claims 3 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ducharme et al., as applied to claims 2 and 5 above, in further view of Kovacevic (USPA 2002/0150248).

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ducharme et al., as applied to claim 5 above, in further view of Wasilewski (USPA 2002/0094084).

Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ducharme et al., as applied to claim 1 above, in further view of Panusopone et al. (US 6,647,061).

Claim 3 is canceled, so the rejection of claim 3 is moot. Applicant respectfully traverses the rejections of claims 6-7 and 10.

Claims 6-7 and 10 now depend from new independent claim 16, and for at least the reasons stated below, are not obvious in view of any of the proposed combinations of Ducharme et al. and Kovacevic, or Ducharme et al., and Wasilewski, or Ducharme et al. and Panusopone et al.¹

New independent claim 16 is a combination based upon, and including the subject matter of original claims 1-3. Claim 3 was rejected as being unpatentable over US 7,120,253

¹ Applicant does not admit or agree that any combinations of Ducharme et al. with any of Kovacevic, Wasilewski, or Panusopone et al. are possible.

(Ducharme et al.) in view of US 2002/0150248 (Kovacevic). However, original claim 3 requires that the terminal is arranged to demultiplex a decrypted data stream comprising multiple elementary data streams and to retransmit information encoded in a subset of the elementary data streams. Independent claim 16 further requires that the terminal *only transmits a subset of the elementary data streams* to the at least one secondary terminal.

As the Office Action correctly concedes,² Ducharme et al. does not disclose or suggest demultiplexing of a decrypted data stream comprising multiple elementary data streams. Instead, the Office Action asserts that Kovacevic in paragraph [0029] describes demultiplexing of a decrypted data stream into multiple elementary streams. While not necessarily agreeing with this assertion, Applicant submits that neither Ducharme et al. nor Kovacevic, taken either alone or in combination, teaches or suggests that *only a subset* of these multiple elementary data streams is subsequently retransmitted to the secondary receiver over the secondary network, as required in independent claim 16.

In contrast to independent claim 16, Ducharme et al. does not even teach or suggest deriving elementary data streams from the primary data stream. Furthermore, Kovacevic only concerns the traditional way of dealing with a data stream in an end-receiver in order to allow viewing of a program. If Kovacevic were to process only a subset of the elementary data streams (Applicant does not agree or admit that it does), such viewing would not be possible. In any case, Kovacevic does not teach or suggest retransmitting the subset of the elementary streams as a secondary data stream over the secondary network to the at least one secondary terminal.

Thus, the proposed combination of Ducharme et al. and Kovacevic fails to teach or suggest all of the subject matter included in independent claim 16.

Applicant respectfully requests consideration and allowance of independent claim 16, and all claims depending from independent claim 16, including a withdrawal of the rejection and an allowance of claims 6-7 and 10 that now depend from independent claim 16.

² See e.g. the Office at pages 9-10, at the second paragraph under item number 9 beginning at the bottom of page 9.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references, or any other references of record, are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/729,247

Filing Date: December 4, 2003

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-371-2132 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

By their Representatives,

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Date JULY 24/2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 24th, day of July 2007.

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